

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:06-CR-00363-RJC

USA

v.

GERALD ADRIAN WHEELER

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ORDER

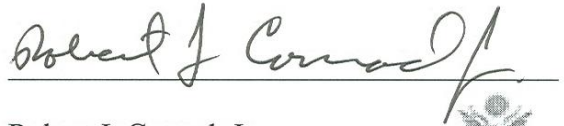
THIS MATTER is before the Court upon motions of the defendant pro se, (Doc. No. 135), and through counsel, (Doc. No. 143), for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine. The United States Probation Office has concluded the defendant is not eligible for a sentence reduction. (Doc. No. 141: Presentence Report Supplement).

The Court sentenced the defendant on February 28, 2008, to 120 months' imprisonment, pursuant to the mandatory minimum sentence prescribed in 21 U.S.C. § 841(b)(1)(B), based on his guilty plea to possession with intent to distribute 500 grams or more of a mixture and substance containing cocaine and a 21 U.S.C. § 851 Notice filed by the government.¹ (Doc. No. 31: Information; Doc. No. 66: Plea Agreement; Doc. No. 108: Judgment; Doc. No. 109: Statement of Reasons). Although the defendant relies on USSG Amendment 750 for his claim, the statutory mandatory minimum applicable to the defendant's cocaine offense has not been changed. Accordingly, the change in the guidelines does not affect the defendant's sentence.

¹ The defendant was also sentenced to a consecutive term of 60 months' imprisonment for a violation of 18 U.S.C. § 924(c)(1)(A). (Doc. No. 108: Judgment)

IT IS, THEREFORE, ORDERED that the defendant's motions, (Doc. Nos. 135, 143)
are **DENIED**.

Signed: July 20, 2015

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

